

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
ROCK HILL DIVISION

Peter McLean,)	
)	C/A No. 0:15-0779-MBS-SVH
Plaintiff,)	
)	
vs.)	
)	O R D E R
Companion Life Insurance Company,)	
)	
Defendant.)	
)	

On January 23, 2015, Plaintiff Peter McLean, proceeding pro se, filed a complaint in the York County, South Carolina, Magistrate's Court, alleging that Defendant Companion Life Insurance Company wrongfully denied a claim for accidental death benefit under a group policy maintained by the decedent's employer, Komet USA, LLC. ECF No. 1-1. Defendant removed the action on February 24, 2015 as preempted under the Employee Retirement Income Security Act of 1974, 29 U.S.C. §§ 1001 et seq. Defendant also filed an answer to the complaint on February 24, 2015.

On March 16, 2015, Plaintiff filed a letter stating that he wished to retract his claim against Defendant. The court construes Plaintiff's letter as a motion for voluntary dismissal pursuant to Fed. R. Civ. P. 41(a)(2), which provides:

(2) **By Court Order; Effect.** Except as provided in Rule 41(a)(1), an action may be dismissed at the plaintiff's request only by court order, on terms that the court considers proper. If a defendant has pleaded a counterclaim before being served with the plaintiff's motion to dismiss, the action may be dismissed over the defendant's objection only if the counterclaim can remain pending for independent adjudication. Unless the order states otherwise, a dismissal under this paragraph (2) is without prejudice.

Defendant filed a response in support of Plaintiff's request on March 23, 2015. However,

Defendant asks that the complaint be dismissed with prejudice.

Plaintiff's Rule 41(a)(2) motion (ECF No. 12) is **granted**. In light of Plaintiff's pro se status and the fact that his request was made at a very early stage of the proceedings, Plaintiff's Rule 41(a)(2) motion is granted **without prejudice**.

IT IS SO ORDERED.

/s/ Margaret B. Seymour
Senior United States District Judge

Columbia, South Carolina

March 27, 2015